

JAMES COX.

[To accompany bill H. R. No. 35.]

FEBRUARY 29, 1840.

Mr. RUSSELL, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom was referred the petition of James Cox, make the following report :

This claim was presented to Congress at the second session of the 25th Congress, and in the House of Representatives referred to the Committee of Claims, and a favorable report made thereon, which this committee adopt as a part of this report ; and herewith introduce a bill for the relief of the petitioner.

MAY 18, 1838.

The Committee of Claims, to whom was referred the petition of James Cox, report :

That James Cox was crier of the United States district court for the eastern district of Pennsylvania, in the years 1826, '27, '28, '29, and, as such crier, was entitled to certain fees in sundry criminal actions where the United States were a party, and which fees were taxed against the United States. John Conrad was marshal of the said district.

The Treasury Department, in accordance with what had been the practice, but against the act of May 8, 1792, had advanced to said marshal money to pay costs, in anticipation that costs would be taxed against the United States ; and the money so advanced was charged against the marshal on the books of the Treasury.

The act of May 8, 1792, did not authorize the advance of money to the marshal until the bills of cost were examined and allowed by the judge. When the bills of cost are thus certified, it becomes the duty of the Treasury Department, on the presentation of said bills, to pay their amount into the hands of the marshal, and it then becomes his duty to pay those entitled to the money.

The marshal and his securities were notoriously insolvent ; and the district attorney, clerk, and crier, presented their accounts at the Treasury for payment, after they had been examined and allowed by the judge. This was done through their own agent, Mr. Peters, and not through the

marshal. The Comptroller required receipts to be executed, as vouchers for having paid the money. As it was the duty of the marshal, under the act mentioned, to disburse the money, it was necessary that the receipts should be given in his name. Arrangements had been made with the Comptroller to take a draft on the collector at Philadelphia. Under these circumstances, the receipts of the officers mentioned were executed and sent to the Treasury Department. When they arrived, they were placed to the credit of the marshal; and as he was still indebted in a large amount, no draft on the collector of Philadelphia was given, nor was any money paid.

A detailed report was made in the case of the heirs of David Caldwell on the 3d of March, 1836, to which the committee refer, and to the documents appended thereto, (in the second volume of Reports of Committees, 1st session 24th Congress, No. 390,) for the facts in this case.

An act was passed for the relief of the heirs of Mr. Caldwell on the 2d of July, 1836; and the committee understand that Mr. Ingersoll, the district attorney, obtained his claim, in setting it off against a debt due from him to the United States, in a suit commenced against him.

Mr. Cox has procured proof of his having been crier at the time these costs accrued, and that his claim is in no way distinguishable from the cases of Mr. Caldwell's heirs and of Mr. Ingersoll; and he has made affidavit that he has never received the amount of his fees from Mr. Conrad, nor from any one else, and that he did not authorize the said Conrad to receive said money for his own use.

The committee herewith report a bill.